

**MOWER CARREON & DESAI LLP**

Aashish Y. Desai, Esq.

Email: [desai@mocalaw.com](mailto:desai@mocalaw.com)

M. Adrienne De Castro, Esq.

Email: [decastro@mocalaw.com](mailto:decastro@mocalaw.com)

8001 Irvine Center Drive, Suite 1450

Irvine, California 92618

Telephone: (949) 474-3004/Facsimile: (949) 474-9001

Attorneys for Plaintiffs

**SWERDLOW FLORENCE SANCHEZ SWERDLOW & WIMMER**

David A. Wimmer, Esq. (SBN 155792)

Email: [dwimmer@swerdlowlaw.com](mailto:dwimmer@swerdlowlaw.com)

Phillip K. Cha, Esq. (SBN 211286)

Email: [pcha@swerdlowlaw.com](mailto:pcha@swerdlowlaw.com)

9401 Wilshire Blvd., Suite 828

Beverly Hills, California 90212

Telephone: (310) 288-3980/Facsimile: (310) 273-8680

**McGUIREWOODS LLP**

Matthew C. Kane, Esq. (SBN 171829)

Email: [mkane@mcguirewoods.com](mailto:mkane@mcguirewoods.com)

Sabrina A. Beldner, Esq. (SBN 221918)

Email: [sbeldner@mcguirewoods.com](mailto:sbeldner@mcguirewoods.com)

Sylvia J. Kim, Esq. (SBN 258363)

Email: [skim@mcguirewoods.com](mailto:skim@mcguirewoods.com)

1800 Century Park East, 8<sup>th</sup> Floor

Los Angeles, California 90067

Telephone: (310) 315-8200/Facsimile: (310) 315-8210

Attorneys for Defendant McLANE FOODSERVICE, INC.  
and Specially Appearing Defendant McLANE COMPANY, INC.

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

MICHAEL CARDENAS, ET AL.,

Plaintiffs,

vs.

McLANE FOODSERVICE, INC., a  
Texas corporation, McLANE  
COMPANY INC., a Texas corporation,  
and DOES 1-100, inclusive,

Defendants.

CASE NO. SACV 10-0473-DOC-FFMx

**STIPULATED PROTECTIVE  
ORDER**

**Discovery Cut-Off Date:** 03/31/11

**Pre-Trial Conference Date:** 06/13/11

**Trial Date:** 08/02/11

1 **1. PURPOSE AND LIMITATIONS**

2 Disclosure and discovery activity in this action are likely to involve  
3 production of confidential, proprietary, or private information by parties and non-  
4 parties to this action for which special protection from public disclosure and from  
5 use for any purpose other than prosecuting this litigation would be warranted.  
6 Accordingly, the parties hereby stipulate to and petition the Court to enter the  
7 following Stipulated Protective Order. The parties acknowledge that this Order does  
8 not confer blanket protections on all disclosures or responses to discovery and that  
9 the protection it affords extends only to the limited information or items that are  
10 entitled under the applicable legal principles to treatment as confidential. **The**  
11 **parties further acknowledge, as set forth in Section 10, below, that this**  
12 **Stipulated Protective Order creates no entitlement to file confidential**  
13 **information under seal; the Federal Rules of Civil Procedure and Local Rules**  
14 **of this Court set forth the procedures that must be followed and reflect the**  
15 **standards that will be applied when a party seeks permission from the Court to**  
16 **file material under seal.**

17 **2. DEFINITIONS**

18 As used in this Stipulated Protective Order:

19 2.1 Party: means any party to this action, including all of its officers,  
20 directors, employees, consultants, retained experts, and outside counsel (and their  
21 support staff).

22 2.2 Disclosure or Discovery Material: means all items or information,  
23 regardless of the medium or manner generated, stored, or maintained (including,  
24 among other things, testimony, transcripts, or tangible things) that are produced or  
25 generated in disclosures or in response to discovery in this matter by any Party or  
26 non-party.

27 2.3 "Confidential" Information or Items: means information (regardless of  
28 how generated, stored, or maintained) that the Producing Party in good faith

1 contends constitutes or contains information that is confidential, sensitive,  
2 competitive, or potentially invasive of an individual's privacy interests.

3       2.4 "Highly Confidential - Attorneys' Eyes Only" Information or Items:  
4 means extremely sensitive "Confidential" Information or Items whose disclosure to  
5 another Party or non-party would create a substantial risk of injury to the Producing  
6 Party that could not be avoided by less restrictive means, including, but not limited  
7 to, personnel or payroll data or information, commercial, pricing, costing, customer  
8 or marketing information relating to the Producing Party or the Producing Party's  
9 commercial products or planned commercial products, or technical and research  
10 information that is extremely sensitive.

11       2.5 Receiving Party: means a Party that receives Disclosure or Discovery  
12 Material from a Producing Party.

13       2.6 Producing Party: means a Party or non-party that produces Disclosure  
14 or Discovery Material in this action.

15       2.7 Designating Party: means a Party or non-party that designates  
16 information or items produced in disclosures or in response to discovery as  
17 "Confidential" or "Highly Confidential - Attorneys' Eyes Only."

18       2.8 Protected Material: means any Disclosure or Discovery Material that is  
19 designated as "Confidential" or as "Highly Confidential - Attorneys' Eyes Only."

20       2.9. Outside Counsel: means attorneys who are not employees of a Party  
21 but who are retained to represent or advise a Party in this action.

22       2.10 House Counsel: means attorneys who are employees of a Party.

23       2.11 Counsel (without qualifier): means, collectively, Outside Counsel and  
24 House Counsel (as well as their support staffs).

25       2.12 Expert: means a person with specialized knowledge or experience in a  
26 matter pertinent to the litigation who has been retained by a Party or its Outside  
27 Counsel to serve as an expert witness or as a consultant in this action. This  
28 definition includes a professional jury or trial consultant retained in connection with

1 this litigation.

2 2.13 Professional Vendors: means persons or entities that provide litigation  
3 support services (e.g., photocopying; videotaping; translating; preparing exhibits or  
4 demonstrations; organizing, storing, or retrieving data in any form or medium; etc.)  
5 and their employees and subcontractors.

6 **3. SCOPE**

7 The protections conferred by this Stipulated Protective Order cover not only  
8 Protected Material (as defined above), but also any information copied or extracted  
9 therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus  
10 testimony, conversations, or presentations by parties or Counsel to or in court or in  
11 other settings that might reveal Protected Material.

12 **4. DURATION**

13 The provisions of this Order are retroactive to and including March 1,  
14 2011. Even after the termination of this litigation, the confidentiality obligations  
15 imposed by this Order shall remain in effect until a Designating Party agrees  
16 otherwise in writing or a court order otherwise directs.

17 **5. DESIGNATING PROTECTED MATERIAL**

18 **5.1 Exercise of Restraint and Care in Designating Material for**  
19 **Protection.** Each Party or non-party that designates information or items for  
20 protection under this Order must take care to limit any such designation to  
21 specific material that qualifies under the appropriate standards. A Designating  
22 Party must take care to designate for protection only those parts of materials,  
23 documents, items, testimony, or oral or written communications that qualify, so  
24 that other portions of the materials, documents, items, testimony, or  
25 communications for which protection is not warranted are not swept  
26 unjustifiably within the ambit of this Order.

27 If it comes to a Party's or a non-party's attention that information or items that  
28 it designated for protection do not qualify for protection at all, or do not qualify for

1 the level of protection initially asserted, that Party or non-party must promptly  
2 notify all other parties that it is withdrawing the mistaken designation.

3 **5.2 Manner and Timing of Designations.** Except as otherwise provided  
4 in this Order (see, e.g., second paragraph of section 5.2(a), below), or as otherwise  
5 stipulated or ordered, material that qualifies for protection under this Order must be  
6 clearly so designated before the material is disclosed or produced.

7 Designation in conformity with this Order requires substantial compliance  
8 with the following:

9 (a) for information in documentary form (apart from transcripts of  
10 depositions or other pretrial or trial proceedings), that the Producing Party affix the  
11 legend "CONFIDENTIAL & SUBJECT TO PROTECTIVE ORDER" or "HIGHLY  
12 CONFIDENTIAL - ATTORNEYS' EYES ONLY & SUBJECT TO PROTECTIVE  
13 ORDER" on each page that contains protected material, or words substantially to  
14 either effect (whichever may be applicable). If only a portion or portions of the  
15 material on a page qualifies for protection, the Producing Party also must clearly  
16 identify the protected portion(s) (e.g., by making appropriate markings in the  
17 margins) and must specify, for each portion, the level of protection being asserted  
18 (either "CONFIDENTIAL & SUBJECT TO PROTECTIVE ORDER" or "HIGHLY  
19 CONFIDENTIAL - ATTORNEYS' EYES ONLY & SUBJECT TO PROTECTIVE  
20 ORDER").

21 A Party or non-party that makes original documents or materials available for  
22 inspection need not designate them for protection until after the inspecting Party has  
23 indicated which material it would like copied and produced. During the inspection  
24 and before the designation, all of the material made available for inspection shall be  
25 deemed "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY." After the  
26 inspecting Party has identified the documents it wants copied and produced, the  
27 Producing Party must determine which documents, or portions thereof, qualify for  
28 protection under this Order, then, before producing the specified documents, the

1 Producing Party must affix the appropriate legend ("CONFIDENTIAL & SUBJECT  
2 TO PROTECTIVE ORDER" or "HIGHLY CONFIDENTIAL - ATTORNEYS'  
3 EYES ONLY & SUBJECT TO PROTECTIVE ORDER") on each page that  
4 contains Protected Material. If only a portion or portions of the material on a page  
5 qualifies for protection, the Producing Party also must clearly identify the protected  
6 portion(s) (e.g., by making appropriate markings in the margins) and must specify,  
7 for each portion, the level of protection being asserted (either "CONFIDENTIAL &  
8 SUBJECT TO PROTECTIVE ORDER" or "HIGHLY CONFIDENTIAL -  
9 ATTORNEYS' EYES ONLY & SUBJECT TO PROTECTIVE ORDER").

10 (b) for testimony given in deposition or in other pretrial or trial  
11 proceedings, that the Party or non-party offering or sponsoring the testimony  
12 identify on the record, before the close of the deposition, hearing, or other  
13 proceeding, all protected testimony, and further specify any portions of the  
14 testimony that qualify as "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES  
15 ONLY." When it is impractical to identify separately each portion of testimony that  
16 is entitled to protection, and when it appears that substantial portions of the  
17 testimony may qualify for protection, the Party or non-party that sponsors, offers, or  
18 gives the testimony may invoke on the record (before the deposition or proceeding  
19 is concluded) a right to have up to 60 days after receipt of the transcript to identify  
20 the specific portions of the testimony as to which protection is sought and to specify  
21 the level of protection being asserted ("CONFIDENTIAL" or "HIGHLY  
22 CONFIDENTIAL - ATTORNEYS' EYES ONLY"). Only those portions of the  
23 testimony that are appropriately designated for protection within the 60 days after  
24 receipt of the transcript shall be covered by the provisions of this Stipulated  
25 Protective Order.

26 Transcript pages containing Protected Material must be separately bound by  
27 the court reporter, who must affix on each such page the legend "CONFIDENTIAL"  
28 or "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY," as instructed by

1 the Party or non-party offering or sponsoring the witness or presenting the  
2 testimony.

3 (c) for information produced in some form other than documentary, and for  
4 any other tangible items, that the Producing Party affix in a prominent place on the  
5 exterior of the container or containers in which the information or item is stored the  
6 legend "CONFIDENTIAL & SUBJECT TO PROTECTIVE ORDER" or "HIGHLY  
7 CONFIDENTIAL - ATTORNEYS' EYES ONLY & SUBJECT TO PROTECTIVE  
8 ORDER." If only portions of the information or item warrant protection, the  
9 Producing Party, to the extent practicable, shall identify the protected portions,  
10 specifying whether they qualify as "CONFIDENTIAL" or as "HIGHLY  
11 CONFIDENTIAL - ATTORNEYS' EYES ONLY."

12 **5.3 Inadvertent Failures to Designate.** If timely corrected, an inadvertent  
13 failure to designate qualified information or items as "CONFIDENTIAL" or  
14 "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY" does not, standing  
15 alone, waive the Designating Party's right to secure protection under this Order for  
16 such material. If material is appropriately designated as "CONFIDENTIAL" or  
17 "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY" after the material was  
18 initially produced, the Receiving Party, on timely notification of the designation,  
19 must make reasonable efforts to assure that the material is treated in accordance  
20 with the provisions of this Order.

## 21 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

22 **6.1 Timing of Challenges.** Unless a prompt challenge to a Designating  
23 Party's confidentiality designation is necessary to avoid foreseeable substantial  
24 unfairness, unnecessary economic burdens, or a later significant disruption or delay  
25 of the litigation, a Party does not waive its right to challenge a confidentiality  
26 designation by electing not to mount a challenge promptly after the original  
27 designation is disclosed.

28 **6.2 Meet and Confer.** A Party that elects to initiate a challenge to a



1 Designating Party's confidentiality designation must do so in good faith and must  
 2 begin the process by conferring directly with Outside Counsel for the Designating  
 3 Party. In conferring, the challenging Party must explain the basis for its belief that  
 4 the confidentiality designation was not proper and must give the Designating Party a  
 5 reasonable opportunity, but in no event less than ten (10) court days, to review the  
 6 designated material, to reconsider the circumstances, and, if no change in  
 7 designation is offered, to explain the basis for the chosen designation. A challenging  
 8 Party may proceed to the next stage of the challenge process only if it has engaged  
 9 in this meet and confer process first.

10 **6.3 Judicial Intervention.** A Party that elects to press a challenge to a  
 11 confidentiality designation after considering the justification offered by the  
 12 Designating Party may file and serve a motion **in accordance with the provisions**  
 13 **of Local Rule 37** that identifies the challenged material and sets forth in detail the  
 14 basis for the challenge. Each such motion must be accompanied by a competent  
 15 declaration that affirms that the movant has complied with the meet and confer  
 16 requirements imposed in the preceding paragraph.

17 The burden of persuasion in any such challenge proceeding shall be on the  
 18 Designating Party. Until the court rules on the challenge, all parties shall continue  
 19 to afford the material in question the level of protection to which it is entitled under  
 20 the Producing Party's designation.

## 21 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

22 **7.1 Basic Principles.** A Receiving Party may use Protected Material that  
 23 is disclosed or produced by another Party or by a non-party in connection with this  
 24 case only for prosecuting, defending, or attempting to settle this litigation. Such  
 25 Protected Material may be disclosed only to the categories of persons and under the  
 26 conditions described in this Order. When the litigation has been terminated, a  
 27 Receiving Party must comply with the provisions of Section 11, below (FINAL  
 28 DISPOSITION).



1 Protected Material must be stored and maintained by a Receiving Party at a  
2 location and in a secure manner that ensures that access is limited to the persons  
3 authorized under this Order.

4 **7.2 Disclosure of "CONFIDENTIAL" Information or Items.** Unless  
5 otherwise ordered by the Court or permitted in writing by the Designating Party, a  
6 Receiving Party may disclose any information or item designated CONFIDENTIAL  
7 only to:

8 (a) the Receiving Party's Outside Counsel of record in this action, the  
9 Receiving Party's Outside Counsel who represent it in connection with issues  
10 related to this action, as well as employees of said Outside Counsel to whom it is  
11 reasonably necessary to disclose the information for this litigation;

12 (b) the officers, directors, and employees (including House Counsel) of the  
13 Receiving Party to whom disclosure is reasonably necessary for this litigation;

14 (c) Experts (as defined in this Order) of the Receiving Party to whom  
15 disclosure is reasonably necessary for this litigation and who have signed the  
16 "Acknowledgement and Agreement to Be Bound" that is attached hereto as Exhibit  
17 A;

18 (d) the Court and its personnel;

19 (e) court reporters, their staffs, and professional vendors to whom  
20 disclosure is reasonably necessary for this litigation and who have signed the  
21 "Acknowledgement and Agreement to Be Bound" (Exhibit A);

22 (f) during their depositions, witnesses in the action to whom disclosure is  
23 reasonably necessary and who, if they are not an officer, director or employee of a  
24 party to this action, have signed the "Acknowledgement and Agreement to Be  
25 Bound" (Exhibit A). Pages of transcribed deposition testimony or exhibits to  
26 depositions that reveal Protected Material must be separately bound by the court  
27 reporter and may not be disclosed to anyone except as permitted under this  
28 Stipulated Protective Order.

(g) the author of the document or the original source of the information.

**7.3 Disclosure of "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY" Information or Items.** Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY" only to:

(a) the Receiving Party's Outside Counsel of record in this action as well as employees of said Outside Counsel to whom it is reasonably necessary to disclose the information for this litigation;

(b) the Receiving Party's House Counsel;

(c) Subject to Section 7.4, Experts (as defined in this Order) (1) to whom disclosure is reasonably necessary for this litigation, and (2) who have signed the "Acknowledgement and Agreement to Be Bound" that is attached hereto as Exhibit A;

(d) the Court and its personnel;

(e) court reporters, their staffs, and professional vendors to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgement and Agreement to Be Bound" that is attached hereto as Exhibit A; and

(f) the author of the document or the original source of the information.

**7.4 Procedures for Approving Disclosure of "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY" Information or Items to "Experts."**

(a) Unless otherwise ordered by the Court or agreed in writing by the Designating Party, a Party that seeks to disclose to an "Expert" (as defined in this Order) any information or item that has been designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" first must make a written request to the Designating Party that (1) sets forth the full name of the Expert and

1 the city and state of his or her primary residence, (2) attaches a copy of the Expert's  
2 current resume, and (3) identifies the Expert's current employer(s). However, if the  
3 intended disclosure to an Expert is made prior to any statutory deadline to disclose  
4 or exchange expert identifications, then the Party that seeks to disclose to an Expert  
5 any information or item that has been designated "HIGHLY CONFIDENTIAL –  
6 ATTORNEYS' EYES ONLY" may redact the full name of the Expert from the  
7 Expert's current resume.

8 (b) A Party that makes a request and provides the information  
9 specified in the preceding paragraph may disclose the subject Protected Material to  
10 the identified Expert 11 court days after delivering the Request unless, within 10  
11 court days of delivering the request, the Party receives a written objection from the  
12 Designating Party. Any such objection must set forth in detail the grounds on which  
13 it is based.

14 (c) A Party that receives a timely written objection must meet and  
15 confer with the Designating Party to try to resolve the matter by agreement. If no  
16 agreement is reached, the Party seeking to make the disclosure to the Expert may  
17 file a motion as provided by the applicable rules seeking permission from the Court  
18 to do so. Any such motion must describe the circumstances with specificity, set  
19 forth in detail the reasons for which the disclosure to the Expert is reasonably  
20 necessary, assess the risk of harm that the disclosure would entail and suggest any  
21 additional means that might be used to reduce that risk. In addition, any such  
22 motion must be accompanied by a competent declaration in which the movant  
23 describes the parties' efforts to resolve the matter by agreement (i.e., the extent and  
24 content of the meet and confer discussions) and sets forth the reasons advanced by  
25 the Designating Party for its refusal to approve the disclosure.

26 In any such preceding the Party opposing disclosure to the Expert shall  
27 bear the burden of proving that the risk of harm that the disclosure would entail  
28 (under the safeguards proposed) outweighs the Receiving Party's need to disclose

1 the Protected Material to its Expert.

2 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**  
3 **PRODUCED IN OTHER LITIGATION.**

4 If a Receiving Party is served with a subpoena or an order issued in other  
5 litigation that would compel disclosure of any information or items designated  
6 in this action as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL -  
7 ATTORNEYS' EYES ONLY," the Receiving Party must so notify the  
8 Designating Party, in writing (by e-mail and fax, if possible) immediately and  
9 in no event more than three (3) court days after receiving the subpoena or  
10 order. Such notification must include a copy of the subpoena or court order.

11 The Receiving Party also must immediately inform in writing the Party  
12 who caused the subpoena or order to issue in the other litigation that some or  
13 all of the material covered by the subpoena or order is the subject of this  
14 Protective Order. In addition, the Receiving Party must deliver a copy of this  
15 Stipulated Protective Order promptly to the party in the other action that  
16 caused the subpoena or order to issue. The Receiving Party will make no  
17 disclosure of any Protected Material prior to the deadline set forth in the  
18 subpoena.

19 The purpose of imposing these duties is to alert the interested parties to  
20 the existence of this Protective Order and to afford the Designating Party in  
21 this case an opportunity to try to protect its confidentiality interests in the  
22 court from which the subpoena or order issued. The Designating Party shall  
23 bear the burden and expense of seeking protection in that court of its  
24 confidential material, and nothing in these provisions should be construed as  
25 authorizing or encouraging a Receiving Party in this action to disobey a lawful  
26 subpoena, process, or directive from another court. The order of the court  
27 from which the subpoena or order seeking production of Protected Material on  
28 the issue of protection of that material will govern in that proceeding.

1 **9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

2 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
3 Protected Material to any person or in any circumstance not authorized under this  
4 Stipulated Protective Order, the Receiving Party must immediately (a) notify in  
5 writing the Designating Party of the unauthorized disclosure(s), (b) use its best  
6 efforts to retrieve all copies of the Protected Material, (c) inform the person or  
7 persons to whom unauthorized disclosures were made of all the terms of this Order,  
8 and (d) request such person or persons to execute the "Acknowledgement and  
9 Agreement to Be Bound" that is attached hereto as Exhibit A.

10 **10. FILING PROTECTED MATERIAL & USE AT TRIAL BEFORE**  
11 **DISTRICT JUDGE.**

12 Without written permission from the Designating Party or a court order  
13 secured after appropriate notice to all interested persons, a Party may not file  
14 in the public record in this or any other action or proceeding any Protected  
15 Material, unless ordered or permitted by the Court or agreement of the  
16 Designating Party. A Party that seeks to file under seal any Protected Material  
17 must comply with the applicable Federal Rules of Civil Procedure and Local  
18 Rules of this Court. Use and disclosure of any Protected Material at trial will  
19 be governed by a subsequent order of the District Judge governing the trial of  
20 this action.

21 **11. INADVERTENT DISCLOSURE OF PRIVILEGED DOCUMENTS.**

22 The inadvertent production or disclosure of any document or thing otherwise  
23 protected by the attorney-client privilege or attorney work product immunity shall  
24 not operate as a waiver of any such privilege or immunity if, after learning of the  
25 inadvertent production or disclosure, the party who made the inadvertent production  
26 or disclosure sends to any Receiving Party a written request for the return or  
27 destruction of such documents or things. Upon receiving such a request, the  
28 Receiving Party shall immediately take all necessary steps to return or destroy such

1 documents or things, including all copies and electronic copies, and make a written  
2 certification to the Producing Party of such compliance. If the Receiving Party  
3 disclosed the inadvertently produced document or thing before being notified by the  
4 Producing Party, it must take reasonable steps to retrieve the inadvertently produced  
5 document or thing.

6       a. If the Receiving Party wishes to contest that any such document or  
7 thing was inadvertently produced or is protected by the attorney-client privilege or  
8 by attorney work-product immunity, the Receiving Party shall so notify the  
9 Producing Party in writing when the document or thing is returned to the Producing  
10 Party. Within 10 court days after receiving such notification, the Producing Party  
11 shall provide to the Requesting Party a list identifying all such returned documents  
12 and things and stating the basis for the claim of privilege or immunity. Within five  
13 (5) court days after receiving such a list, and after the parties have attempted to  
14 resolve the dispute through a meaningful meet-and-confer, the Receiving Party may  
15 file a motion to compel production of such documents and things, the protection of  
16 which is still disputed. If such a motion is filed, the Producing Party shall have the  
17 burden of proving that the documents and things in dispute are protected by the  
18 attorney-client privilege or by attorney work-product immunity.

19       b. With respect to documents and things subsequently generated by a  
20 Receiving Party, which documents and things contain information derived from  
21 such inadvertently produced documents and things, if the Receiving Party does not  
22 notify the Producing Party that the Requesting Party disputes the claims of attorney-  
23 client privilege or attorney work-product immunity, the Receiving Party shall  
24 immediately destroy or redact the derivative documents and things in a manner such  
25 that the derivative information cannot in any way be retrieved or reproduced.

26       c. In no event, however, shall the return or destruction of demanded  
27 documents be delayed or refused because of a Receiving Party's objection to the  
28 demand or by the filing of a motion to compel. Furthermore, until and unless such

1 motion to compel is granted, the Receiving Party shall neither quote nor  
2 substantively reveal any privileged information contained within the documents or  
3 things at issue, either prior to or following their return, except to the extent such  
4 information is reflected in an appropriate privilege log.

5 **12. FINAL DISPOSITION.**

6 Unless otherwise ordered or agreed in writing by the Producing Party, within  
7 60 days after the final termination of this action, each Receiving Party must return  
8 all Protected Material to the Producing Party. As used in this Section, "all Protected  
9 Material" includes all copies, abstracts, compilations, summaries or any other form  
10 of reproducing or capturing any of the Protected Material. With permission in  
11 writing from the Designating Party, the Receiving Party may destroy some or all of  
12 the Protected Material instead of returning it. Whether the Protected Material is  
13 returned or destroyed, the Receiving Party must submit a written certification to the  
14 Producing Party (and, if not the same person or entity, to the Designating Party) by  
15 the sixty day deadline that identifies (by category, where appropriate) all the  
16 Protected Material that was returned or destroyed and that affirms that the Receiving  
17 Party has not retained any copies, abstracts, compilations, summaries or other forms  
18 of reproducing or capturing any of the Protected Material. Notwithstanding this  
19 provision, Outside Counsel are entitled to retain an archival copy of all pleadings,  
20 motion papers, transcripts, legal memoranda, correspondence or attorney work  
21 product, even if such materials contain Protected Material. Any such archival copies  
22 that contain or constitute Protected Material remain subject to this Protective Order  
23 as set forth in Section 4 (DURATION), above.

24 **13. MISCELLANEOUS**

25 **13.1 Right to Further Relief.** Nothing in this Order abridges the right of  
26 any person to seek its modification by the Court in the future.

27 **13.2 Right to Assert Other Objections.** By stipulating to the entry of this  
28 Protective Order no Party waives any right it otherwise would have to object to



1 disclosing or producing any information or item on any ground not addressed in this  
2 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
3 ground to use in evidence of any of the material covered by this Protective Order.

4 **13.3 Stipulation Binding Upon Execution and For Limited Duration.**

5 By signing this Stipulated Protective Order, the Parties agree to be bound by its  
6 terms, upon execution by all Parties **and effective as of March 1, 2011**, even if the  
7 Stipulated Protective Order is not entered by the Court, subject to the further  
8 stipulation by the Parties and/or order of the Court regarding the treatment of any  
9 documents or information that was provided pursuant to its terms. Nothing in this  
10 Stipulated Protective Order constitutes any type of express or implied waiver or  
11 limitation by the Parties of any of their rights under the Federal Rules of Civil  
12 Procedure or the Court's Local Rules.

13 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

14  
15 **ORDER**

16  
17 **IT IS SO ORDERED.**

18  
19 **DATED: March 10, 2011**

**/S/ FREDERICK F. MUMM**  
**HON. FREDERICK F. MUMM**  
**UNITED STATES MAGISTRATE JUDGE**

**EXHIBIT A**

**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, \_\_\_\_\_, of \_\_\_\_\_, declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California in the case of MICHAEL CARDENAS, ET AL., vs. McLANE FOODSERVICE, INC., et al., Case No. SACV 10-0473-DOC-FFMx. I agree to comply with and to be bound by all of the terms of that Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to the Stipulated Protective Order to any person or entity except in strict compliance with the provisions thereof.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of the Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_